



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,114	09/28/2006	Michael A. Hoopes	18801-00733	9365

7590 03/20/2009
Robert H Earp III
McDonald Hopkins Company
2100 Bank One Center
600 Superior Avenue East
Cleveland, OH 44114-2653

EXAMINER

WINNER, TONY H

ART UNIT	PAPER NUMBER
----------	--------------

3611

MAIL DATE	DELIVERY MODE
-----------	---------------

03/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/554,114	Applicant(s) HOOPES ET AL.	
	Examiner Tony H. Winner	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 11-20 is/are rejected.
- 7) ☒ Claim(s) 10-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/5/09</u> . | 6) <input type="checkbox"/> Other: _____ |

Acknowledgment

1. Receipt of the amendment filed 1/5/09 has been acknowledged and entered.

The office is withdrawing all objections and rejections in view of the amendment. The Canadian reference (2,523,038), part of an IDS filed 1/5/09 has been crossed-out since only the front cover page of a notice of allowance is submitted.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 4, 7-9, 11-13, and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lindenman et al. (USPN. 7,264,259 B2).

Lindenman discloses all of the structural as claimed (figures 1-6), a fifth wheel hitch assembly, the structure comprising:

- a. a base assembly (generally shown as 36);
- b. a head assembly (16) connected to said base assembly, said head assembly having a slot; and
- c. a single jaw body (66) for securing a king pin of a trailer, the jaw body having a stepped bearing surface (figure 5) for engaging the king pin; and

d. a connecting link (70) pivotally connected to said control handle by a first pivot pin and to said jaw body by a second pivot pin.

Regarding claims 3, 4, 7-9, 11-13, and 16-20 Lindenman discloses all of the claimed limitations.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindenman in view of Schuettenberg (USPN. 6,109,642).

Lindenman is disclosed above but lacks the teaching of a grease fitting.

Schuettenberg discloses the use of grease fitting on a king pin and saddle assembly so as to provide lubrication to rotational elements of the saddle.

Therefore, it would have been obvious to one skilled in the art to modify the jaw body of McCoy to include the grease fitting (grease zerk) as taught by Schuettenberg, for the reasons set forth above.

Modified Lindenman is disclosed above but lacks the grease zerk access aperture provided in the skid plate. However, the Examiner takes position that by

Art Unit: 3611

adding an aperture on the skid plate to allow access to the grease zerk would have been obvious to one having ordinary skill in the art.

Regarding claims 14-15, Lindenman discloses the claimed invention except for the ranges of height and tread of the first and second steps. It would have been obvious to one having ordinary skill in the art at the time the invention was made to optimize the ranges of height and tread such that it would allow the device to fit a wider range of application, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Allowable Subject Matter

4. Claims 10 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 1/5/09 have been fully considered but they are moot in view of new ground of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP, 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (571) 272-6654. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris, can be reached on (571) 272-6651. Currently, the fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

Art Unit: 3611

more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6584.

/Tony H. Winner/
Primary Examiner, Art Unit 3611
March 17, 2009